

Docket No. 7660

Order entered: 9/16/2010

The Vermont Marble Power Division of OMYA Inc. ("VMPD") and Central Vermont Public Service Corporation ("CVPS" and, collectively with VMPD, the "Petitioners") jointly filed a petition with the Public Service Board ("Board") on August 2, 2010, requesting that the Board consent to the proposed sale by VMPD and purchase by CVPS of assets used in the public service business of VMPD and approve certain related matters. As part of the proposed purchase and sale, CVPS will acquire from VMPD, among other things, four hydroelectric facilities on Otter Creek and VMPD's transmission and distribution facilities, which include approximately 56 miles of 46 kV transmission lines, 11 miles of 2.4/4.16 kV distribution lines, one distribution substation in the Village of Proctor, and two transmission substations. Included with the petition was the prefiled testimony of several witnesses and a motion by CVPS for a protective order for confidential treatment of certain exhibits to the prefiled testimony of James C. Cater. Subsequently, CVPS (on August 18, 2010) and VMPD (on August 23, 2010) each filed motions for orders related to protective agreements governing allegedly confidential information that may be requested during the discovery process.

I convened a prehearing conference on September 14, 2010. The following appearances were entered: Edward V. Schweibert, Esq., of Kenlan, Schweibert, Facey & Goss, P.C. for

VMPD; Morris L. Silver, Esq., for CVPS; and, Laura Beliveau, Esq., for the Vermont Department of Public Service ("Department").

At the prehearing conference, the parties indicated agreement on a proposed schedule previously submitted by the Petitioners. Certain adjustments to the proposed schedule were discussed at the prehearing conference. Based on the parties' proposed schedule and these discussions, I adopt the following schedule for this proceeding:

Deadline for Motions to Intervene	October 4, 2010
Responses to Motions to Intervene	October 6, 2010
Petitioners' Supplemental Direct Prefiled Testimony, if any	October 18, 2010
Responses to CVPS Motion for Confidential Treatment of Certain Prefiled Exhibits	October 25, 2010
Rolling Discovery on Petitioners until	November 2, 2010
Deadline for Final Discovery Responses	November 9, 2010
Public Hearing ¹	November 9, 2010
Non-Petitioner Prefiled Testimony Due ²	December 9, 2010
Discovery Requests on Non-Petitioners' Prefiled Testimony	December 14, 2010
Discovery Responses by Non-Petitioners	December 29, 2010
Technical Hearings (with live rebuttal and surrebuttal)	Week of January 10, 2011
Briefs and Proposals for Decision	January 28, 2011

1. See comments below about the feasibility of including notice of the public hearing in customer bills. Petitioners may be requested to make a brief presentation concerning their joint petition at the public hearing.

2. The current parties anticipate that they will notify the Board by November 16, 2010, as to whether or not they have agreed to a stipulation. The adopted schedule assumes both a contested proceeding and notification to the Board that the proceeding will be contested by November 16, 2010. If the parties do file a stipulation by November 16, 2010, the current parties contemplate that prefiled testimony in support of the stipulation would be filed on December 3, 2010, and that a technical hearing would be held during the week of December 13, 2010, with briefs due on December 23, 2010. If the parties advise the Board by November 16, 2010, that the parties wish to have more time to negotiate a stipulation, the schedule will be amended, as appropriate, to extend applicable deadlines based on the actual date on which the parties either advise the Board of their intent to litigate the proceeding or file a stipulation.

Responses to Briefs

February 4, 2011³

VMPD should advise the Board as soon possible about whether it is feasible for them to notify their customers about the November 9 public hearing, by including details about the public hearing in monthly bills provided to customers prior to the public hearing.⁴

Each of the Petitioners has entered into a protective agreement with the Department regarding the treatment during the discovery process of allegedly confidential information and has filed a motion for an order regarding its respective protective agreement. Given the absence of objection to these motions and to facilitate discovery, a procedural order regarding these protective agreements will be issued shortly. An order with respect to the motion by CVPS for confidential treatment of portions of two prefiled exhibits will not be issued until after responses to the motion are filed on October 25, 2010.

The Board will not require six copies of all filings as provided in Board Rule 2.204(D), as three copies will suffice for purposes of this proceeding. However, the parties are requested to provide the Board with an electronic copy (e-mail submission is acceptable) of all testimony, motions, responses and briefs.⁵ In addition, the parties are requested to submit three copies of all discovery requests and responses to the Board at the time the request or response is made.

SO ORDERED.

3. If any of the parties so request, the deadline for responses to briefs will be extended up to February 11, 2011.

4. Notification to customers of the public hearing was not discussed at the prehearing conference.

5. Any electronic filings submitted in .pdf format should be submitted in a form that will permit the Board and other parties to search the document and extract text.

Dated at Montpelier, Vermont, this 16th day of September, 2010.

s/ Lars Bang-Jensen, Esq.
Lars Bang-Jensen
Hearing Officer

OFFICE OF THE CLERK

FILED: September 16, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)